THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.32356 OF 1998

Dated 17th March 2006

Between:

Dhurnoothala Gopaiah & another.

…Petitioners

And

The Collector, Kadapa District & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.32356 OF 1998

O R D E R:

The father and paternal uncle of the 1st petitioner are said to have been granted DKT patta, over an extent of Ac.2-35 cents and Ac.3-26 cents of land in Peddapalli village of Sidhout Mandal, Kadapa District, in the year 1961. He claims to have inherited the same. The 2nd petitioner is said to have been assigned an extent of Ac.2-26 cents in Sy.No.928/2 of that village, in the same year. They state that on an earlier occasion, when the respondents tried to dispossess them, they approached this court by filing W.P.No.13183 of 1987, and that the respondents have given an assurance to the effect that, if it becomes inevitable to dispossess the petitioners from the existing lands, they would be provided with alternative site, and in that view of the matter, the writ petition was withdrawn. The petitioners contend that without either initiating proceedings, or abiding by the assurance given by them, the respondents have tried to interfere with their possession, and seek appropriate

directions, in this regard.

The writ petition was filed in the year 1998, and an interim order was passed, protecting the interests of the petitioners. For one reason or the other, the respondents did not file any counter affidavit. Be that as it may, it is settled principle of law that once a person is found to be in possession of any Government land, either as an assignee or an encroacher, he cannot be evicted, except by following the procedure prescribed by law. If the respondents find that the assignments in favour of the petitioners, or their predecessors, are liable to be cancelled, necessary notice needs to be issued. Even assuming that there does not exist any valid assignment in favour of the petitioners, notice under Section 7 of the Andhra Pradesh Encroachment Act (for short “the Act”) has to be served on them. Either way, they cannot be evicted, or otherwise interfered with.

For the foregoing reasons, the writ petition is disposed of, directing the respondents not to evict or otherwise interfere with the possession of the petitioners, over the land in question, except by following the procedure prescribed by law. There shall be no order as to costs.

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17th March 2006

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